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 DAVID NANCE

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

DAVID M. NANCE, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> GEORGE SHENG, and PEACE ELECTRONICS, INC., and DOES 1-20, <p style="text-align: center;">Defendants.</p>	Case No.: 3:08-CV-01450-SI FIRST AMENDED ANSWER OF DAVID M. NANCE TO COUNTERCLAIM FILED BY GEORGE SHENG AND PEACE ELECTRONICS, INC.
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Upon knowledge with respect to himself and his own acts and information and belief as to all other matters, Plaintiff/Counter-Defendant DAVID M. NANCE ("Nance") files this Answer to the Cross-Complaint filed on July 11, 2008 in the District Court of the Northern District of California (the "Counterclaim") by Defendants/Counterclaimants GEORGE SHENG and PEACE ELECTRONICS, INC., (collectively "Defendants") as follows:

**NANCE'S ANSWER TO THE ALLEGATIONS IN
 DEFENDANTS COUNTERCLAIM**

1. Answering Paragraph 20 of Defendants' Counterclaim, Nance admits

FIRST AMENDED ANSWER OF DAVID M. NANCE TO COUNTERCLAIM FILED BY GEORGE SHENG AND
 PEACE ELECTRONICS, INC.

1 the allegations contained therein. Except as so admitted, the allegations of this
2 paragraph are denied.

3 2. Answering Paragraph 21 of Defendants' Counterclaim, Nance admits
4 the allegations contained therein. Except as so admitted, the allegations of
5 this paragraph are denied.

6 3. Answering Paragraph 22 of Defendants' Counterclaim, Nance admits
7 the allegations contained therein. Except as so admitted, the allegations of
8 this paragraph are denied.

9 4. Answering Paragraph 33 of the Counterclaim, Nance admits
10 Defendants incorporate by reference the preceding paragraphs 1-32. To the
11 extent a response is required, Nance denies the allegations.

12 5. Answering Paragraph 34 of the Counterclaim, Nance admits an
13 actual, substantial, and continuing justiciable controversy between Nance and
14 Defendants exists regarding infringement of the '478 patent. Except as so
15 admitted, the allegations of this paragraph are denied.

16 6. Answering Paragraph 35 of the Counterclaim, Nance denies the
17 allegations contained therein.

18 7. Answering Paragraph 36 of the Counterclaim, Nance denies the
19 allegations contained therein.

20 8. Answering Paragraph 37 of the Counterclaim, Nance denies the
21 allegations contained therein.

22 9. The remaining allegations in the Counterclaim constitute a prayer
23 for relief and therefore require no response. To the extent a response is
24 required, Nance denies the allegations.

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PRAYER FOR RELIEF

10. WHEREFORE, Nance requests the following relief:

a. A judgment that Defendants recover nothing by their Counterclaim;

b. A judgment that Defendants' Counterclaim be dismissed with prejudice and that each request for relief therein be denied;

c. A declaratory judgment that:

i. Defendants have infringed and continue to infringe U.S. Patent No. D557,478;

ii. U.S. Patent No. D557,478 is valid and/or enforceable;

d. An order, pursuant to 35 U.S.C. § 285, finding that this is an exceptional case and awarding Nance his reasonable attorney fees, expenses, and costs incurred in this action; and

e. An order awarding Nance such other and further relief as this court deems just and proper.

Dated: September 3, 2008

CASAS RILEY & SIMONIAN, LLP

By: /s/ Martin H. Q. Nguyen
Martin H.Q. Nguyen
Attorneys for Plaintiff
DAVID M. NANCE

I. DEMAND FOR TRIAL BY JURY

Nance hereby demands a trial by jury of all issues triable by a jury.

Dated: September 3, 2008

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By: /S/ Martin H. Q. Nguyen
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